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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

THE SIERRA CLUB and)
 ENVIRONMENTAL INTEGRITY)
 PROJECT,)
 Plaintiffs,)
 v.)
 UNITED STATES ENVIRONMENTAL)
 PROTECTION AGENCY,)
 Defendant.)

Case No. C 11-0846 MEJ

**DEFENDANT'S SECOND UNOPPOSED
 ADMINISTRATIVE MOTION TO
 AUGMENT BRIEFING SCHEDULE;
 DECLARATION OF COUNSEL;
~~PROPOSED~~ ORDER**

ADMINISTRATIVE MOTION

Defendant United States Environmental Protection Agency ("EPA") by its attorney, the United States Attorney for the Northern District of California, hereby requests a change in this Court's January 25, 2012 briefing schedule. Specifically, Defendant respectfully requests that the Court consider defendant's February 13, 2012 brief as timely filed and extend the time for Plaintiffs to file their Opposition and Cross-Motion to March 19, 2012. The remaining dates, including the hearing date, would remain the same.

This request is made on the ground that it is unopposed and two of the declarants providing evidentiary support for defendant's motion were unavailable to sign their declarations

1 in a timely manner.

2 **FACTS**

3 Plaintiffs filed this action pursuant to the FOIA and the APA on February 23, 2011. The
 4 matter was referred to mediation on June 6, 2011. [Docket No. 17.] After several attempts to
 5 resolve the matter, the case did not settle. In their November 17, 2011 status report, the parties
 6 presented the court with a proposed briefing schedule to resolve the issues by cross-motions for
 7 summary judgment.[Docket No. 22.] The court adopted the proposed schedule in its November
 8 21, 2011 order. [Docket No. 23.] According to the schedule, defendant's motion was due by
 9 January 13, 2012, plaintiff's opposition and cross-motion was due February 10, 2012, and replies
 10 were due March 9, 2012 for an April 10, 2012 hearing on the cross motions.

11 Defendant was been unable to collect the information necessary to prepare its motion for
 12 summary judgment by the January 13, 2012 due date for motions. On January 25, 2010, this
 13 court granted defendant's unopposed motion to adjust the briefing schedule and set the following
 14 deadlines:

15 Defendant's Motion for Summary Judgment: February 3, 2012

16 Plaintiffs' Opposition, Cross-Motion: March 9, 2012

17 Defendant's Reply, Opposition: March 30, 2012

18 Plaintiffs' Reply: April 27, 2012

19 Hearing: May 10, 2012, at 10:00 a.m.

20
 21 The defendant's motion for summary judgment relies principally on the declarations of
 22 Leticia Lane and Janet Adams. These witnesses were unavailable to sign their declarations in a
 23 timely matter. A signed version of the Lane declaration did not become available until
 24 February 8, 2012 and the signed version of the Adams declaration did not become available until
 25 February 13, 2012.

26 Plaintiffs have indicated they would not object to the defendant's motion to change to
 27 February 13, 2012 the filing deadline for its summary judgment motion so long as the motion

does not change the hearing date for the motions and sets the following deadlines:

Defendant's Motion for Summary Judgment:	February 13, 2012
Plaintiff's Opposition, Cross-Motion:	March 19, 2012
Defendant's Reply:	March 30, 2012
Plaintiffs' Reply:	April 27, 2012
Hearing:	May 10, 2012

Defendant agreed to submit a request for the court to order these new dates.

Respectfully submitted,

MELINDA HAAG
United States Attorney

Dated: February 15, 2012

/s/
ABRAHAM A. SIMMONS
Assistant United States Attorney
Attorneys for the Federal Defendants

DECLARATION OF COUNSEL

I, Abraham A. Simmons, do hereby declare under penalty of perjury the following:

1. I am the Assistant United States Attorney assigned to this case. I make this declaration of my own knowledge and would competently testify to the facts in this declaration if called upon to do so.

2. Plaintiffs filed this action pursuant to the FOIA and the APA on February 23, 2011. The matter was referred to mediation on June 6, 2011. After several attempts to resolve the matter, the case did not settle.

3. In their November 17, 2011 status report, the parties presented the court with a proposed briefing schedule to resolve the issues by cross-motions for summary judgment. The court adopted the proposed schedule in its November 21, 2011 order. According to the schedule, defendant's motion was due by January 13, 2012, plaintiff's opposition and cross-motion was

1 due February 10, 2012, and replies were due March 9, 2012 for an April 10, 2010 hearing on the
2 cross motions.

3 4. Defendant has been unable to collect and provide to me the information necessary for me
4 to prepare its motion for summary judgment by the January 13, 2012 due date for motions.

5 5. I communicated with plaintiff's counsel, David A. Bahr, regarding defendant's inability
6 to meet this court's deadline. Mr. Bahr informed me that plaintiff had no objection to defendant
7 requesting a three-week extension of time to file its motion.

8 6. The defendant's motion for summary judgment relies principally on the declarations of
9 Leticia Lane and Janet Adams. I am informed and believe these witnesses were unavailable to
10 sign their declarations in a timely matter. On February 10, 2012, Mr. Bahr graciously agreed to
11 not oppose a request to extend the filing deadline to February 13, 2012 so long as the hearing
12 date for the motion did not change and the court ordered the following dates:

13 Defendant's Motion for Summary Judgment:	February 13, 2012
14 Plaintiff's Opposition, Cross-Motion:	March 19, 2012
15 Defendant's Reply:	March 30, 2012
16 Plaintiffs' Reply:	April 27, 2012
17 Hearing:	May 10, 2012

18 The effect of the schedule is to maintain the hearing date but shorten the time for defendants to
19 respond to plaintiffs' opposition and cross-motion.
20

21 7. A signed version of the Lane declaration did not become available until February 8, 2012
22 and the signed version of the Adams declaration did not become available until February 13,
23 2012.

24 I swear under penalty of perjury under the laws of the United States that the foregoing is
25 true. Sworn this 15th day in February, 2012 in San Francisco, California.

26
27 /s/
28 Abraham A. Simmons

~~PROPOSED~~ ORDER

Defendant's request to augment the briefing schedule is granted, the parties will observe the following briefing and hearing schedule:

Defendant's Motion for Summary Judgment:	February 13, 2012
Plaintiff's Opposition, Cross-Motion:	March 19, 2012
Defendant's Reply:	March 30, 2012
Plaintiffs' Reply:	April 27, 2012
Hearing:	May 10, 2012

Date: February 16, 2012



Chief United States Magistrate Judge